

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

November 14, 1985

Councilors Present: Councilors Cooper, DeJardin, Gardner, Hansen, Kafoury, Kelley, Oleson, Van Bergen, Waker and Bonner

Councilors Absent: Councilors Kirkpatrick and Myers

Also Present: Rick Gustafson, Executive officer

Staff Present: Don Carlson, Eleanore Baxendale, Vickie Rocker, Dan Durig, Norm Wietting, Randi Wexler, Ray Barker, Dennis Mulvihill, Peg Henwood, Jill Hinckley, Neal McFarlane, Buff Winn, Jennifer Sims, Kay Rich, Steve Siegel, Andy Cotugno and Chet Gregg

Presiding Officer Bonner called the meeting to order at 5:30 p.m.

1. INTRODUCTIONS

None.

2. COUNCILOR COMMUNICATIONS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

Executive Officer Gustafson reported the written monthly Executive Officer's report would be mailed out with the first Council meeting agenda of each month.

Washington Transfer & Recycling Center (WTRC) Update. Randi Wexler reported staff were continuing to negotiate for a site for the WTRC facility. A public hearing had been scheduled for December 19 to consider whether two new Tigard sites should be added to those with which staff could negotiate for property purchase. Ms. Wexler said staff expected to have a resolution before the Council on January 9, 1986, for the purpose of designating one site for the facility.

Solid Waste Reduction Program Update. Vickie Rocker discussed a series of meetings staff were conducting with various public groups prior to the December 5 general public hearing on the program. Presiding Officer Bonner urged Councilors to attend as many of these meetings as possible. Ms. Rocker also announced staff had placed a

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full-page advertisement in the Sunday Oregonian asking citizens for their comments on the program.

4. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

5. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

6. APPROVAL OF MINUTES

Motion: Councilor Gardner moved to approve the Council meeting minutes of September 26, October 10 and October 24, 1985. Councilor Waker seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, DeJardin, Gardner, Hansen, Kafoury, Kelley, Oleson, Van Bergen, Waker and Bonner

Absent: Councilors Kirkpatrick and Myers

The motion carried and the minutes were approved.

7. ORDINANCES

7.1 Consideration of Ordinance No. 85-192, for the Purpose of Adopting Additional Findings in Support of the Urgan Growth Boundary (UGB) and Amending the Findings Adopted in Ordinance No. 79-77 (First Reading and Public Hearing)

The Clerk read the ordinance by title only.

Motion: Councilor Kafoury, seconded by Councilor Waker, moved the Ordinance be adopted.

Jill Hinckley explained that last July Judge Wallace Carson, Marion County Circuit Court Judge Pro Tem, issued the decision in 1000 Friends of Oregon's five-year-old appeal of the Land Conservation & Development Commission's (LCDC) acknowledgement of Metro's Urban Growth Boundary. Although supportive of LCDC's action on most grounds, the Court overturned the acknowledgement on the grounds that it lacked a clear statement of the reasons for compliance with LCDC Goal 14 (Urbanization). She explained that LCDC then remanded the matter to Metro so that new Findings would be submitted to address the deficiencies posed by the Court. The proposed Findings,

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she said, were based on the existing records supporting adoption of the UGB in 1979 and supplemented by taking notice of certain key acknowledgments, rules and ordinances since that time. Ms. Hinckley explained that although the Council could hear new evidence, it should not base its decision on that evidence or incorporate any new information in the Findings.

Presiding Officer Bonner opened the public hearing on Ordinance No. 85-192. He then read the following statement to ensure all parties understood the action before the Council: "The matter before the Council today is the adoption of additional Findings to support the Urban Growth Boundary adopted in 1979. These Findings are in response to remand from LCDC to address the issues identified by Marion County District Court in its decision overturning the acknowledgment of that boundary. Because the Findings are intended to clarify the basis for LCDC's acknowledgement, the record has not been opened for new information regarding the appropriate size and location of the Boundary for 1985. Such information will be excluded from the proceedings but the Council legally may not consider that information when it makes its own decision." The Presiding Officer then asked that those testifying limited their comments to five minutes each.

Bob Stacey, 300 Willamette Building, 534 S.W. 3rd Avenue, Portland, representing 1000 Friends of Oregon, submitted five exhibits as part of his testimony. He said he did not accept the premise the Council was legally bound not to consider new evidence and that 1000 Friends would be presenting new evidence to the LCDC when the Boundary was resubmitted. He then explained the decision before the Council was that of ratifying the existing UGB and adopting a new justification for approximately 28,000 acres of surplus as identified in 1977, for growth within the Boundary.

Mr. Stacey proposed that due to inaccuracies in the original data and in the land development process, it was very unlikely much of this land would be developed by the year 2000. Mr. Stacey summarized the conclusions of this assertion. He said that conclusion was based on the assumption that Metro would continue to experience the kind of growth experienced in 1977 but since then, growth had slowed. Also, the development densities that were assumed in the 1979 and 1977 UGB Findings were substantially lower than the densities allowed in current comprehensive plans, resulting in an approximate 12,000 acre surplus in residentially-designated land within the tri-county region, he said. In addition, Metro staff prepared a recent industrial land survey which identified an approximate 11,000 acre surplus in raw industrial land. The kind of restraints and inefficiencies which staff findings identified as being the basis for the 28,000 acre surplus were already accounted for in the kinds

of projections, estimates and inventory techniques used by CRAG in 1978 to prepare the original findings. Finally, Mr. Stacey raised the concern that the three areas in question, totaling about 3,500 acres, were all residential properties located in Washington County. As such, the County's plan had previously identified an approximate 6,000 acre surplus of residential, single family land in unincorporated urban areas of Washington County, he said. He questioned whether those areas were committed to urban development and requested the Council reject the Findings and direct the staff to inquire whether the surplus land in Washington County should be deleted from the Boundary.

James Rapp, City Manager, City of Sherwood, read written testimony which strongly urged Metro to forward Findings supporting reacknowledgment of the UGB, as originally established in 1980, to the LCDC. The UGB, he testified, was established only after a lengthy process of public participation and had been reconfirmed by subsequent actions such as adoption of the city of Sherwood and Washington County Plans. The wisdom of the 1980 boundary had been shown by several annexations to the city of Sherwood, new industrial and residential planning and development, major water and sewer service upgrades and extensions up to and into the disputed area, and the formation of LID's to pay for urban services. He urged the Council to restore confidence in a decision made over five years ago.

Ken Hosler, Route 3, Box 310, Sherwood, owner of Tualatin Valley Nursery in Sherwood, said he represented 50 property owners who had participated in the process of developing Sherwood's Comprehensive Plan. This group supported the position that Metro maintain the original Urban Growth Boundary.

Charles L. Hoar, Route 3, Box 159A3, Sherwood, representing the 1,600 members of the Sherwood Elk's Lodge, testified in favor of maintaining the existing UGB. To do otherwise would undermine plans for growth and development, he said.

Al Benkendorf, 522 S.W. 5th Avenue, Portland, Principal of Benkendorf Associates, representing Ridgecrest Farms, 10120 S.W. Nimbus Avenue, Tigard, testified the farm owned four contiguous lots comprising over 92 acres on the south side of S.W. Scholls Ferry Road. That property was located within the UGB acknowledged by LCDC in 1979, he said. Mr. Benkendorf submitted a five-page letter to the Council explaining why he supported staff's recommendation. In addition to the reasons for accepting the recommendation as listed in the letter, Mr. Benkendorf read from the letter thirteen comments explaining why staff's recommendation would specifically apply to the Ridgecrest Farms property.

James J. Huntzicker, 5170 S.W. Kaiser Road, Portland, said he was in favor of shrinking the UGB by removing the Bethany area from the UGB. Mr. Huntzicker specifically addressed Exhibit A of the agenda materials which contained the issue of market factors. Those findings stated the UGB contained a 13 percent market factor or surplus, he said, and that surplus was designed to prevent the price of land from skyrocketing if UGB land was filled up. He pointed out that figure was 13 percent of the total UGB and translated to over 28,000 buildable acres or approximately 9,800 acres per county. Mr. Huntzicker testified Washington County provided for about 18,000 buildable acres within its share of the UGB but only projected a need for about 8,000 of those acres which left 9,800 acres in surplus. He maintained Washington County's method of calculating the market factor and necessary surplus was wrong. Mr. Huntzicker proposed the market factor be projected on the basis of need rather than on the total amount of land within the UGB. He then suggested removing Bethany from the UGB which would not seriously impact the supply of buildable land available. In conclusion, he said if the Council decided not to remove the Bethany property from the UGB as a compromise solution, the Council might consider reinstating the special regulated area status of the property, meaning the property could not be urbanized until at least 1990.

Mary Tobias, Mayor, city of Sherwood, introduced other Sherwood residents attending the meeting. She said residents were committed to urban development and asked the Council to support staff's findings.

Greg Malinowski, 13720 N.W. 6th Avenue, Apartment 25, Beaverton, testified if the Council approved staff's recommendation, the potential for his farm's growth would be restricted. Urbanization would result in much higher property taxes and sprawl, he said, and such development would not be conducive to good agricultural practices. He stressed that planned urban services were not needed in the Bethany area and the urban designation should be moved to an area where it was needed. Mr. Malinowski submitted reports to the Council to document his position. Councilor Kafoury requested copies of these reports be made available to all Councilors before the second hearing on the Ordinance.

Richard Leonard, 9999 S.W. Wilshire Street, Portland, of Richard Leonard Architecture & Planning, said he had previously submitted a letter to the Council in support of staff's recommendation. Services were in place, properties were being assessed and plans were being drawn for development, he reported, which were all clear and compelling commitments to urbanization. He disagreed with Mr. Stacey's earlier statement there was no need for additional single family land. Mr. Leonard reported only 28 percent of the land had been planned for single family dwellings.

Maurine Warneking, 12835 N.W. Laidlaw Road, Portland, Bethany area resident, said she had been very involved in the initial effort to include the Bethany area in the UGB. The land in question, she said, was not in the country but was less than one mile from prime industrial land and near the Sunset Corridor. Ms. Warneking testified that property owners wanting to keep the area zoned rural lived on small farms of five acres or less. Larger parcels had already been sold for industrial or housing projects. She urged the Council to accept staff's recommendation and maintain the urban designation for the area.

Jan Teeter, 13835 N.W. Greenwood, Portland, a Bethany area resident, testified it was the Council's job to balance the citizens' needs and make a decision that would be in everyone's best interests. She requested the Council defer a decision for five years.

Darlene Werner, 5475 N.W. 137th, Portland, read a letter from Raymond Taennler which supported the position of keeping the Bethany land rural. Mr. Taennler stressed that 70 percent of the land was rural and the soil was best suited for agricultural purposes.

Robert O. Werner, 5475 N.W. 137th Avenue, Portland, advocated keeping the Bethany land rural because he did not think additional development was needed at this time.

David Bennett, 3500 First Interstate Tower, Portland, Chairman of the Business and Land Development Committee of the I-5 Corridor Association, said the Association's Board of Directors supported the initial boundary, especially for the Bull Mountain and Sherwood areas. He then read a portion of a letter from the Association to the LCDC, dated September 6, 1985, advocating this position.

Tim Ramis, 1727 N.W. Hoyt, Portland, representing Bethany and Bull Mountain property owners, submitted proposed amendments to the Findings for the Council's consideration. He explained the amendments did not specifically address the contested areas. Instead, they augmented staff's approach and provided additional, factual information which would be helpful to the Attorney General's office in defending the Findings before the Court of Appeals. Mr. Ramis testified the amendments sought to emphasize two important factors: 1) the disputed area represented only 1.1 percent of the land within the UGB; and 2) the Washington County Growth Management Program, referred to at footnote 17 in the staff draft, was acknowledged by LCDC and upheld by the Court of Appeals in the face of challenges similar to those raised in the Metro UGB case. He also pointed out that one of his proposed amendments (point 2, page 4, the addition of a paragraph) should be deleted from consideration.

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In response to the Presiding Officer's question, Ms. Hinckley said staff supported Mr. Ramis' proposed amendments with the following changes: 1) the deletion of point 2 as noted by Mr. Ramis earlier; and 2) the deletion of the entire sentence referred to under point 3. Ms. Baxendale added she wanted to record to be clear that by deleting that sentence, it would not be construed the Council did not want to entertain the option in question. Rather, the sentence was being deleted to specifically include the option. Ms. Hinckley said she would prepare amendment language to be considered by the Council for the second hearing on the Ordinance.

John O. Mitchell, 4180 N.W. Kaiser Road, Portland, testified the Bethany area should stay within the UGB.

There being no further public testimony, Presiding Officer Bonner closed the public hearing. A second reading on the Ordinance was scheduled for November 26. He then declared recess at 7:00 p.m. The Council reconvened at 7:10 p.m.

8. RESOLUTIONS

8.1 Consideration of Resolution No. 85-605, for the Purpose of Expanding the Membership of the Regional Adult Corrections Task Force to Include Representatives from Cities

Motion: Councilor Kafoury moved to adopt the Resolution and Councilor DeJardin seconded the motion.

In response to Councilor Waker's question, Neal McFarlane explained the current makeup of the Task Force included sharrifs, commissioners or executives, district attorneys, jail administrators and community corrections advisors from each county plus six judiciary representatives, three Metro Councilors and the Director of State Division of Corrections. The group established priorities for the region, he explained.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, DeJardin, Gardner, Hansen, Kafoury, Kelley, Waker and Bonner

Absent: Councilors Kirkpatrick, Myers, Oleson and Van Bergen

The motion carried and the Resolution was adopted.

8.2 Consideration of Resolution No. 85-603, for the Purpose of Continuing the Bi-State Policy Advisory Committee

Motion: Councilor Kafoury moved to adopt the Resolution and Councilor Kelley seconded the motion.

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Presiding Officer Bonner read into the record a statement from State Representative Mike Burton: "As former (and first) Chair of the Bi-State Advisory Committee, I strongly urge you to adopt this Resolution to continue the dialogue that has been established in the interstate region."

Councilor Kafoury asked what could be done to encourage attendance of certain Committee members. Councilor Hansen reported that Multnomah County, by oversight, probably did not assign a representative to the Committee after Gladys McCoy resigned. Presiding Officer Bonner said he would send letters to the City of Portland and Multnomah County urging their active participation on the Committee.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, Dejardin, Gardner, Hansen, Kafoury, Kelley, Waker and Bonner

Absent: Councilors Kirkpatrick, Myers, Oleson and Van Bergen

The motion carried and the Resolution was adopted.

8.3 Consideration of Resolution No. 85-604, for the Purpose of Establishing Criteria and Guidelines for Naming Exhibits and Public Spaces in Honor of Individuals

Motion: Councilor Waker moved the Resolution be adopted and Councilor DeJardin seconded the motion.

Don Carlson explained the Council had previously reviewed the guidelines and had requested staff incorporate them into a Resolution.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, Dejardin, Gardner, Hansen, Kafoury, Kelley, Waker and Bonner

Absent: Councilors Kirkpatrick, Myers, Oleson and Van Bergen

The motion carried and the Resolution was adopted.

In response to Councilor Kelley's question, Kay Rich explained a memorial was being planned in Bruce Etlinger's name to be installed at the Zoo's Entrance.

9. OTHER BUSINESS

9.1 Consideration of a Contract with Len Hufford Construction Co. for Repair of the Concrete Floor of the Clackamas Transfer & Recycling Center

Buff Winn reviewed the bidding process and recommended the contract be awarded to Len Hufford Construction Company, the lowest responsive bidder, at a price of \$80,167. He then explained the need for the contract, noting unusual wear had occurred to the concrete slab on the dumping floor of CTCR. This wear was due to abrasion caused by scraping and the chemical nature of the refuse, he said. Therefore, a highly resistant type of concrete needed to be used to resurface the floor. In answer to Councilor Waker's question, Mr. Winn said the new concrete floor would probably last five to seven years.

Motion: Councilor Kafoury moved the contract be awarded to Len Hufford Construction Co. Councilor Waker seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, Dejardin, Gardner, Hansen, Kafoury, Kelley, Waker and Bonner

Absent: Councilors Kirkpatrick, Myers, Oleson and Van Bergen

The motion carried and the contract was approved.

9.2 Consideration of a Contract with Tice Electric Company to Construct an Electrical Substation at the Zoo

Kay Rich reviewed the contract award and referred the Council to a memo from Metro's Contract Officer which stated Tice Electric met the stated Disadvantaged Business Enterprise Program (DBE) requirements. Mr. Rich then recommended the contract be awarded to Tice Electric, the lowest bidder.

Motion: Councilor Kafoury moved, seconded by Councilor Waker, the contract be awarded the Tice Electric Company.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, Dejardin, Gardner, Hansen, Kafoury, Kelley, Waker and Bonner

Absent: Councilors Kirkpatrick, Myers, Oleson and Van Bergen

The motion carried and the contract was approved.

9.3 Consideration of Orders No. 85-7 and 85-8, Declaring Certain Property Surplus and Authorizing the Execution by Subleases (with Pacific Fishery Management Council and the Tri-County Youth Consortium)

Jennifer Sims reviewed highlights of the proposed leases with the above two agencies. She explained some specific wording still needed to be worked out with the Pacific Fishery lease but it was nearly complete.

A discussion followed regarding granting of free parking spaces as terms of subleases. Ms. Sims said she considered this concession as part of a total lease package but would examine the issue more closely.

Motion: Councilor Kafoury moved to adopt order No. 85-7, authorizing the execution of a sublease with Pacific Fishery Management Council. Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, Dejardin, Gardner, Hansen, Kafoury, Kelley, Waker and Bonner

Absent: Councilors Kirkpatrick, Myers, Oleson and Van Bergen

The motion carried and the Order was adopted.

Motion: Councilor DeJardin moved to adopt order No. 85-8, authorizing the execution of a sublease with Tri-County Youth Consortium. Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, Dejardin, Gardner, Hansen, Kafoury, Kelley, Waker and Bonner

Absent: Councilors Kirkpatrick, Myers, Oleson and Van Bergen

The motion carried and the Order was adopted.

9.4 Consideration of the FY 1986-87 Budget Adoption Process

Ms. Sims reviewed the proposed budget adoption process and reported some changes had been recommended from last year's process due to suggestions from the FY 1985-86 Budget Committee. These changes

included: reducing the number of Budget Committee meetings by streamlining department overviews; providing less budget documents and working from one, streamlined document; and increasing the number of citizen Committee members to seven, two positions being carried over from the previous year to provide more continuity.

Councilor Hansen suggested that for FY 1987-88, the budget adoption process could include one public hearing before the combined Council and Budget Committee.

A discussion followed regarding staff's proposed dates. Noting some of the dates were in error, Ms. Sims agreed to bring back a final schedule to the Council and the schedule could be approved in concept.

Motion: Councilor Kafoury moved, seconded by Councilor Kelley, to approved the FY 1986-87 Budget Adoption Process in concept.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, Dejardin, Gardner, Hansen, Kafoury, Kelley, Waker and Bonner

Absent: Councilors Kirkpatrick, Myers, Oleson and Van Bergen

The motion carried and the schedule was approved.

10. COMMITTEE REPORTS

There were no committee reports.

At 8:00 p.m., the Presiding Officer called the meeting into Executive Session under the authority of ORS 192.660(1)(h). The regular meeting reconvened at 8:10 p.m.

11. ALASKA TUNDRA PROJECT LITIGATION

Motion: Councilor Waker moved to ratify adding the Alaska Tundra Exhibit project architects as defendants in Metro's lawsuit against the surety companies. Councilor Hansen seconded the motion.

Vote: A vote on the motion resulted in:

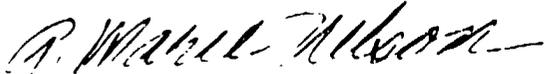
Ayes: Councilors Cooper, DeJardin, Gardner, Hansen, Kafoury, Waker and Bonner

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Absent: Councilors Kirkpatrick, Kelley, Myers, Oleson and
Van Bergen

There being no further business, Presiding Officer Bonner adjourned
the regular meeting at 8:12 p.m.

Respectfully submitted,



A. Marie Nelson
Clerk of the Council

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